

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA, §
§
v. § **EP-11-CR-2728-KC**
§
ANGEL OCASIO. §

ORDER

On this day the Court considered the above-captioned case. Currently before the Court is Angel Ocasio's Motion for Reconsideration of Order of April 26, 2013 ("Motion"), ECF No. 126, and the government's Response to Defendant's Motion for Reconsideration of Order of April 26, 2013 ("Response"), ECF No. 128. In his Motion, Mr. Ocasio requests that the Court reconsider its April 26, 2013, Order ("Order"), ECF No. 122, in which the Court granted in part and denied in part Mr. Ocasio's Federal Rule of Criminal Procedure 16 request to compel production of nine items of evidence relating to a software system. *See Order 1-6.* The Court granted Mr. Ocasio access to software system training materials and any contract relating to the software system. *Id.* at 5-6. The Court denied Mr. Ocasio access to the source code and other technical details of the software system. *See id.*

In his Motion, Mr. Ocasio indicates that if the Court does not reconsider its Rule 16 ruling, he will serve TLO LLC, the creator of the software system, with a Rule 17 subpoena to produce the source code and other technical details of the software system. *See Mot. 3 n.2.* Specifically, Mr. Ocasio states that "[i]n the event this Court declines to reconsider its Order, and with the corporate details provided in the Government's Response and supporting materials and following the Government's invitation in its Response to do so, a subpoena has been directed to TLO, LLC demanding the materials held unavailable through this Motion to Compel." *Id.*

Because Mr. Ocasio's Rule 17 subpoena would yield the same materials that he is seeking through Rule 16, the Court, at this time, takes Mr. Ocasio's Motion, ECF No. 126, under advisement. Trial is quickly approaching in this case. Therefore, the Court **ORDERS** that when Mr. Ocasio serves TLO with a Rule 17 subpoena, he shall notify the Court. If the government wishes to move to quash this subpoena, it shall have forty-eight hours to file such a motion. Mr. Ocasio will then have forty-eight hours to respond, if he so chooses.

SO ORDERED.

SIGNED this 20th day of May, 2013.



KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE